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Paper No. 13

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**MAR 28 2003**

**OFFICE OF PETITIONS**

In re Application of :  
R. Dennis Nesbitt :  
Application No. 09/877,835 : DECISION GRANTING PETITION  
Filed: 8 June, 2001 :  
Attorney Docket No. SLD 20214-3 :  
:

This is a decision on the request for reconsideration filed on 24 March, 2003, which is treated as a renewed petition under 37 CFR 1.53(e) requesting that the above identified application be accorded a filing date of 8 June, 2001.

The petition is **GRANTED**.

The application was filed on 8 June, 2001. On 27 November, 2002, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that the drawings were received. A two (2)-month period for reply was set.

In response, the present petition was filed on 21 January, 2003, in which petitioner asserts that the application, as filed, included three (3) sheets of drawings. In support, the petition is accompanied by a copy of petitioner's return receipt postcard bearing a USPTO Office stamp with an "Office-date" of 06/08/01 and the above-identified application number and itemizing the filing of three (3) sheets of drawings. The petition filed on 21 January, 2003, was dismissed because petitioners failed to supply a copy of the three (3) sheets of drawings asserted to have been filed on 8 June, 2001.

In response, on 24 March, 2003, the present request for reconsideration was filed, again asserting that the application

as filed on 8 June, 2001, included three (3) sheets of drawings. Additionally, petitioners have submitted a copy of the three (3) sheets of drawings asserted to have been filed in the USPTO on 8 June, 2001. Petitioners request that the application, including three (3) sheets of drawings, be accorded a filing date of 8 June, 2001.

A review of the record reveals that no pages of specification have been located among the application papers deposited on 8 June, 2001. However, the evidence is convincing that the application papers deposited on 8 June, 2001, included three (3) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including three (3) sheets of drawings, is entitled to a filing date of 8 June, 2001.

In view of the above, the petition is granted. The petition fee submitted with the petition filed on 21 January, 2003, is unnecessary and will be credited to counsel's deposit account, No. 06-0308.

The application will be processed and examined using the copy of three (3) sheets of drawings supplied on 24 March, 2003.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 8 June, 2001, using the application papers filed on that date, and the copies of three (3) sheets of drawings supplied on 24 March, 2003.

Telephone inquires should be directed to the undersigned at 703 308-6918.

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